

SERVICE DATE – AUGUST 18, 2014

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 414 (Sub-No. 3X)

IOWA INTERSTATE RAILROAD—ABANDONMENT EXEMPTION—IN MARION
AND JASPER COUNTIES, IOWA

Decided: August 15, 2014

Iowa Interstate Railroad, Ltd. (IAIS), filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 13.36-mile rail line between milepost 123.50 near Otley and milepost 136.86 near Prairie City, in Marion and Jasper Counties, Iowa (the Otley segment). Notice of the exemption was served and published in the Federal Register on October 20, 2000 (65 Fed. Reg. 63,116).

On November 20, 2000, at the request of the Jasper and Marion County Conservation Boards, the Iowa Natural Heritage Foundation (INHF), and the Iowa Trails Council (ITC) (collectively, Proponents), the Board reopened this proceeding and issued a Decision and Notice of Interim Trail Use or Abandonment (NITU) permitting IAIS to negotiate with Proponents for an interim trail use/rail banking agreement for the Otley segment under the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act) and the Board's regulations at 49 C.F.R. § 1152.29.

Recently, in a different proceeding,¹ the Jasper County Conservation Board (Jasper County or the County) filed a letter stating that on August 26, 2001, IAIS transferred a 5.6-mile portion of the Otley segment between milepost 135.0 and milepost 129.4 (the Prairie City-Monroe section) “directly” to the County rather than through INHF and ITC, and that “consummation of the agreement was not clarified with the STB

¹ Iowa Interstate R.R.—Aban. Exemption—in Polk, Jasper & Marion Cntys., Iowa, AB 414 (Sub-No. 8X) (2014 Abandonment). There, IAIS has filed a petition for exemption seeking authority again to abandon the Otley segment (as well as to abandon two other contiguous segments, one of which similarly had previously been authorized for abandonment in another docket) because, IAIS states, it never consummated the Otley segment abandonment authorized in this docket by filing the notice of consummation required under 49 C.F.R. § 1152.29(e) and the authority had expired. In a separate decision served today, the Board is granting the petition for exemption in 2014 Abandonment, authorizing IAIS's abandonment of the Otley segment (except for the Prairie City-Monroe section) and the other two segments.

[or] with any of the parties.”² Jasper County requests that the Board “recognize the NITU for [the Prairie City-Monroe section] and the subsequent transfer under the Trails Act,” if it grants the petition for exemption in 2014 Abandonment.³ In that same proceeding, IAIS stated that it transferred the Prairie City-Monroe section to Jasper County under an agreement “that requires the County to comply with requirements of the Trails Act.”⁴

On June 26, 2014, Jasper County filed a letter pursuant to 49 C.F.R. § 1152.29(f) requesting the Board to transfer to it responsibility for the Prairie City-Monroe section of the Otley segment. The County submitted a copy of the extant NITU and a statement of its willingness to assume financial responsibility for interim trail use and rail banking pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29. Jasper County acknowledges that use of the right-of-way is subject to possible future reconstruction and reactivation of the right-of-way for rail service. INHF filed a letter on July 29, 2014, supporting Jasper County’s request and a separate letter on August 4, 2014, stating that ITC’s board has disbanded and therefore cannot concur.

Jasper County’s submission, as supplemented by the letters from INHF, meets the requirements of 49 C.F.R. § 1152.29(f). Accordingly, its request will be granted, and a replacement NITU will be issued for the Prairie City-Monroe section of the Otley segment.

This decision will not significantly affect either the quality of human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The NITU served on November 20, 2000, is vacated, and a replacement NITU for the Prairie City-Monroe section of the Otley segment applicable to Jasper County as interim trail sponsor is issued, effective on the service date of this decision and notice.
3. Jasper County is required to assume, for the term of the agreement, full responsibility for: (1) managing the right-of-way; (2) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability); and (3) the payment of any and all taxes that may be levied or assessed against the right-of-way.

² Jasper County letter at 1, 2014 Abandonment (filed May 27, 2014).

³ Id.

⁴ IAIS Pet. For Exemption at 6 n.2, 2014 Abandonment (filed May 2, 2014).

4. Interim trail use/rail banking is subject to possible future reconstruction and reactivation of the right-of-way for rail service and to Jasper County's continuing to meet its responsibilities for the right-of-way described in ordering paragraph 3 above.

5. If Jasper County intends to terminate trail use on all or any part of the right-of-way covered by the interim trail use agreement, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

6. This decision and notice is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.